

01
02
03
04
05
06
07
08 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

09 BILL LIETZKE,) Case No. C07-889-RSL
10)
11 Plaintiff,)
12 v.)
13 CITY OF MONTGOMERY, et al.,) ORDER TRANSFERRING CASE
14 Defendants.)
_____)

15 Plaintiff Bill Lietzke, appearing *pro se*, has filed an application to proceed *in forma*
16 *pauperis* and a proposed 42 U.S.C. § 1983 civil rights complaint against the City of
17 Montgomery, Alabama, and several of its law enforcement officials. Dkt. No. 1-1. After
18 careful consideration of the complaint, governing law, and the balance of the record, the
19 Court finds that venue is improper, and ORDERS that this case be TRANSFERRED to the
20 United States District Court for the Middle District of Alabama.

21 A. The Complaint

22 Plaintiff's complaint alleges that from June 9, 1997, through March 4, 2007, the City
23 of Montgomery, through several of its police officers, repeatedly harassed him on several of
24 the public streets of Montgomery. Dkt. No. 1-1 at 5-21. The complaint alleges that
25 plaintiff's First Amendment rights of free speech and assembly were violated, and states
26 causes of action for negligence, criminal trespass, false imprisonment, assault, harassment,

01 and menacing. *Id.* at 21-24. Plaintiff seeks the immediate imprisonment of the named
02 individual defendants, more than one billion dollars in compensatory damages, and an
03 “immediate shut down” of the “intersections of Grove Street at South Court Street, and Grove
04 Street at South McDonough Street.” *Id.* at 4.

05 B. Improper Venue

06 Venue for actions not based solely on diversity of citizenship is determined by 28
07 U.S.C. § 1391(b), which states:

08 A civil action wherein jurisdiction is not founded solely on diversity of
09 citizenship may, except as otherwise provided by law, be brought *only* in (1) a
10 judicial district where any defendant resides, if all defendants reside in the
11 same State, (2) a judicial district in which a substantial part of the events or
12 omissions giving rise to the claim occurred, or a substantial part of property
that is the subject of the action is situated, or (3) a judicial district in which any
defendant may be found, if there is no district in which the action may
otherwise be brought.

13 28 U.S.C. § 1391(b) (emphasis added).

14 Here, each of the named defendants—the City of Montgomery, Mayor Bobby Bright,
15 Police Chief Art Baylor, and Walter Byers—reside in the State of Alabama, not the State of
16 Washington. Furthermore, all of the events or omissions giving rise to the claims in
17 plaintiff’s complaint occurred in Alabama, not Washington. Accordingly, venue is not proper
18 in the United States District Court for the Western District of Washington.

19 Title 28 U.S.C. § 1406(a) provides that “[t]he district court of a district in which is
20 filed a case laying venue in the wrong division or district shall dismiss, or if it be in the
21 interest of justice, transfer such case to any district or division in which it could have been
22 brought.” Because the defendants reside in Alabama, and because all of the acts or omissions
23 giving rise to plaintiff’s claims occurred in Alabama, this action could have been brought in
24 the United States District Court for the Middle District of Alabama. The Court finds that a
25 transfer to the United States District Court for the Middle District of Alabama is in the
26 interests of justice.

01 C. Conclusion

02 The Clerk of Court is directed to TRANSFER this case to the United States District
03 Court for the Middle District of Alabama pursuant to 28 U.S.C. § 1406(a). As a result,
04 plaintiff's application to proceed *in forma pauperis* (Dkt. No. 1) is DENIED as MOOT.

05 The Clerk of Court is further directed to send a copy of this Order to plaintiff and to
06 the Honorable James P. Donohue, United States Magistrate Judge.

07 DATED this 19th day of June, 2007.

08
09 

10 Robert S. Lasnik
11 United States District Judge
12
13
14
15
16
17

18 Recommended for entry
19 this 19th day of June, 2007.

20 /s/ JAMES P. DONOHUE
21 United States Magistrate Judge
22
23
24
25
26